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9 Attorneys for USACM Liquidating Trust

10 **UNITED STATES BANKRUPTCY COURT**
 11 **DISTRICT OF NEVADA**

12 In re:

13 USA COMMERCIAL MORTGAGE
 14 COMPANY,

15 Debtor.

16 Case No. BK-S-06-10725-LBR

17 Chapter 11

18 **USACM Trust's Motion to Clarify the
 19 Record Regarding Proof of Claim
 20 No. 10725-00495 By Robert Levy**

21 **Date of Hearing: March 1, 2012**

22 **Time of Hearing: 10:00 a.m.**

23 **Estimated Time for Hearing: 10 minutes**

24 The USACM Liquidating Trust (the "USACM Trust") moves to clarify the record
 25 regarding certain Direct Lender claims and how these claims are to be treated by the
 26 USACM Trust. This Court may correct these errors pursuant to Bankruptcy Rules 3008
 and 9024.

27 Robert Levy filed Proof of Claim No. 10725-00495 (the "Levy POC") in the
 28 amount of \$200,000. A copy of the Levy POC is attached as **Exhibit A**. Although the
 29 amount listed on the face of the Levy POC is \$200,000, the documentation supporting the
 30 Levy POC indicates that it is based upon only a \$50,000 investment in the Fiesta Oak
 31 Valley Loan and a \$50,000 investment in the Gramercy Court Loan. No other loans are
 32 referenced in the Levy POC or the documents attached to it.

33 The USACM Trust objected to Direct Lender claims based upon an investment in
 34 the Fiesta Oak Valley Loan, but offered to allow twenty percent of the Fiesta Oak Valley
 35 Claims. The Levy POC was subject to this objection [DE 9074]. The Court sustained the



1 Trust's objection and disallowed the Levy POC to the extent it is based upon the Fiesta
 2 Oak Valley Loan. Consistent with the actual amount of the investment, the exhibit
 3 attached to the order allowed \$10,000 and disallowed \$40,000 of the Levy POC
 4 [DE 9472.]

5 Likewise, the USACM Trust objected to the Levy POC to the extent that it was
 6 based upon an investment in the Gramercy Court Loan [DE 8057]. The Court sustained
 7 that objection. Consistent with the amount of the investment, the exhibit attached to the
 8 order shows that the "approximate amount disallowed" was \$50,000 [DE 8113.]

9 Thus, although the Trust has objected to the two loans upon which the Levy POC
 10 is based and the Court has sustained both objections, the Trust's records arguably show
 11 that \$100,000 of the claim remains unresolved. Accordingly, the Trust requests an order
 12 clarifying that the Levy POC is allowed in the amount of \$10,000 and the remainder is
 13 disallowed.

14 Wherefore, the USACM Liquidating Trust requests that the foregoing orders be
 15 amended as requested.

16 Respectfully submitted February 2, 2012.

17 **LEWIS AND ROCA LLP**

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1 COPY of the foregoing mailed
2 by First Class Postage Prepaid
3 U.S. Mail on February 2, 2012,
4 to:

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8 LEWIS AND ROCA LLP

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10 By: /s/ *Renee Creswell*
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